

REMARKS

Claims 1-21 were examined and rejected. No claims have been amended or cancelled. Applicant respectfully requests reconsideration of claims 1-21 in view of at least the following remarks.

I. Claims Rejected Under 35 U.S.C. § 103

The Patent Office rejects claims 1-14 and 16-21 under 35 U.S.C. § 103(a) as being patentable over U.S. Patent No. 5,984,855 to DiNapoli (DiNapoli) in view of U.S. Patent No. 4,214,421 to Battle et al. (Battle). To render a claim obvious, all elements of that claim must be taught or suggested by at least one properly combined reference.

Applicant respectfully disagrees with the rejection above and submits that independent claim 1 is patentable over the cited references for at least the reason that the cited references do not teach or suggest “a neck portion coupled to the head portion, the neck portion defining a volume substantially conforming to an equine neck; and at least one magnetic strip coupled to the neck portion,” as required by claim 1. According to claim 1, for example, the apparatus includes a neck portion that extends downward from the head portion, conforming to an equine neck, and having a magnetic strip coupled to it.

DiNapoli describes a magnetic blanket for covering the body of a horse (see Abstract). Neck portion 12, straps 34, 34', 36, 36', 14, 16, 18, and 20; neck bands 30, 30', 32, and 32' of the blanket are taught as existing on a part of a blanket that closes around the horse's neck and chest area, but are not taught as extending above the horse chest or shoulder area (see col. 3, lines 10-38; and Figures 1 and 3). Thus, although front end 12 closes around the horse's neck and chest area, it does not define a volume substantially conforming to an equine neck because it defines a volume including an equine chest area (see Figure 3). Likewise, there is no motivation or suggestion in DiNapoli to couple front end 12 to a head portion having a shape conforming to an equine head.

Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in DiNapoli of the above quoted limitations of claim 1. Specifically, DiNapoli does not show, describe, or teach front end 12 of the blanket coupled or attached to a head portion having a shape conforming to an equine head, nor that front end 12 or any other part of magnetic blanket 10 defines a volume substantially conforming to an equine neck, because front end 12 is not shown or described as extending above the chest and shoulders of the horse (see Figure 3).

Battle teaches a horse blanket and hood apparatus where the head extends over the head and neck portions of the horse (see Figure 1 and col. 3, lines 16-26). Specifically, Battle teaches a blanket having improved strap and strap closure abilities to connect to a hood so that the horse will show well and the blanket and hood will be maintained on the horse in a fixed position (see col. 1, lines 6-11; and col. 2, lines 18-28).

Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in Battle of a neck portion defining a volume substantially conforming to an equine neck, coupled to a head portion, and having at least one magnetic strip coupled thereto, as required by claim 1. For example, Battle does not teach, suggest, or motivate magnetic strips or other therapy along any portion of blanket 12.

Thus, neither DiNapoli, Battle, nor the combination teaches or suggests the neck portion coupled to the head portion, extending down neck, and having at least one magnetic strip, as required by claim 1. Hence, for at least this first reason, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 1.

Moreover, Applicant asserts that the combination of DiNapoli and Battle is improper. DiNapoli teaches a magnetic blanket for equine therapy that uses hook and pile ("Velcro") fasteners, snaps, buckles, clips, and the like; flexible magnetic bands contained in wick material, where each band has 3-20 ceramic magnets to treat soreness and stiffness of a horse's muscles (see col. 3, lines 18-21, lines 35-39; col. 4, lines 4-7, and lines 34-46). Thus, DiNapoli teaches a blanket having 20 flexible magnetic bands attached to the outside of a magnetic blanket using hook and pile type fasteners, where

each magnetic band may include up to 20 magnets for a total of 276 magnets (see col. 3, lines 28-33, 50-52; and col. 4, lines 23-25). It should be appreciated by the Patent Office that a blanket having 20 flexible magnetic bands attached to it with Velcro will make a visual impact on an observer of a horse wearing the blanket and a comfort impact on the horse. For example, such a blanket will not appear to be very appealing, smooth, or contoured to the horse; and may not be very comfortable to the horse. On the other hand, Battle teaches a blanket for showing horses, such as a blanket that is comfortable to the horse, is smoothly contoured, and provides a desirable appearance (see col. 1, lines 6-11; col. 3, lines 63-66; and col. 6, lines 41-46). Thus, presuming that the flexible magnetic bands of DiNapoli could be attached to the blanket of Battle (a proposition which Applicant does not agree with as explained below), attaching the magnetic bands of DiNapoli to Battle would defeat the primary purpose of Battle which is to provide a blanket having an appealing, desirable, and smooth appearance for showing a horse, because the magnetic bands of DiNapoli would not be appealing, smooth, appealing in appearance, or comfortable to the horse (see MPEP § 2145.XD). Similarly, use of the blanket of Battle with the hook and pile magnetic bands of DiNapoli would render DiNapoli unsatisfactory for its intended purpose of attaching the magnetic bands to the blanket because the hook and pile material of the magnetic bands would not attach to the nylon (ANTRON) shell (see col. 3, line 66 through col. 4, line 3) of Battle (see MPEP § 2145.XD). Hence, for at least this second reason, Applicant respectfully request that the Patent Office withdraw the rejection above of independent claim 1.

Applicant submits that dependent claims 2-14 and 16-18, being dependent upon allowable base claim 1, are patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claims 2-14 and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

In addition, Applicant disagrees with the above rejection of independent claim 19, for at least the reason that the cited references do not teach or suggest “a neck portion having a neck portion distal and coupled to the head portion, the neck portion defining a volume substantially conforming to an equine neck; and at least one magnetic material strip detachably coupled to the neck portion,” as required by claim

19. The arguments with respect to claim 1 above apply here as well. Thus, for at least the same reasons noted above with respect to claim 1, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 19.

Applicant submits that dependent claim 20, being dependent upon allowable base claim 19, is patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claim 20 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

Finally, Applicant disagrees with the above rejection of independent claim 21, and submits that independent claim 21 is patentable over the cited references because the cited references do not teach or suggest “a neck portion coupled to the head portion, the neck portion defining a volume substantially conforming to an equine neck; and two magnetic strips each approximately 25.5” by 5” detachably coupled to the neck portion,” as required by independent claim 21. The arguments above with respect claim 1 apply here as well. Hence, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 21, for at least the reasons cited above for claim 1.

The Patent Office rejects claim 15 under 35 U.S.C. § 103 as being unpatentable over DiNapoli as modified by Battle as applied to claim 1 above, and further in view of JP 2000342699 (herein ‘699). Adding ‘699 does not cure the shortcomings of DiNapoli and Battle. Thus, Applicant submits that dependent claim 15, being dependent upon allowable base claim 1, is patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claim 15 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.


If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on August 16, 2004.

 8/19/04
Nadya Gordon Date